CLASSIFICATION OFFICE DECISION

Title of publication:	JANUARY 2019 QUINNEYS BUSH
Other known title(s):	Not stated
OFLC ref:	1900547.000
Medium:	Text File
Publisher:	Not applicable
Country of origin:	Aotearoa New Zealand
Language:	English
Applicant:	Commissioner of Police
Classification:	Objectionable except if the availability of the publication is restricted to mental health professionals for the purpose of the assessment and treatment of the person who created the publication.
Descriptive note:	None
Display conditions:	None
Date of entry in Register:	12 December 2019
Date of direction to issue a label:	No direction to issue a label has been issued
Date of notice of decision:	12 December 2019

Summary of reasons for decision:

The text file deals with a planned sexual assault of a child. The publication appears to be for the personal use of its creator and the Classification Office is not aware of any evidence at the time of this classification to suggest that it has been distributed or is intended for distribution. Nevertheless, it undoubtedly promotes and supports the exploitation of children for sexual purposes and is therefore deemed objectionable under s3(2)(a) of the Films, Videos, and Publications Classification Act 1993 (FVPC Act). The Classification Office has had extensive and careful regard to ss13 and 14 of the New Zealand Bill of Rights Act 1990 (NZBORA) – the need to ensure that the right to freedom of thought and freedom of expression continue to be protected in New Zealand. It could be argued that making private diary and journal entries subject to the provisions set out in the FVPC Act where there is no evidence of any attempt to distribute these publications beyond the creator is tantamount to classifying private thought. In this regard the Classification office has also considered s 23(3) of the FVPC Act which allows a publication that would otherwise be classified as objectionable to be classified as a restricted publication in order that it may be made available to particular persons for professional purposes. The Classification Office acknowledges that the ongoing availability of this text file in the hands of its creator is likely to have a detrimental effect on his psychological wellbeing. However, any injury to the public good (from the publication itself) could only arise if its availability extends beyond the creator. Taking into account the nature of the material, the young age of the creator, the need to prevent injury to the public good and the creator's right to freedom of thought

and expression, the publication's availability is restricted to mental health professional s for the purpose of the assessment and treatment of the person who created it. Restricting the availability of the publication in this manner will have the same effect as an objectionable classification without unduly criminalising the creator for simply having recorded his personal (albeit disturbing) thoughts for his own reference.